

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOHNNY RUSSO,

Petitioner,

v.

Case No. 10-C-855

JUDY SMITH,

Warden, Oshkosh Correctional Institution,

Respondent.

ORDER

The petitioner, who is proceeding pro se, filed his petition for a writ of habeas corpus on September 30, 2010. Subsequently, on November 8, 2010, he filed a motion for appointment of counsel which was denied by this court on December 14, 2010. See Court's Decision and Order of December 14, 2010, at 3. On March 16, 2011, the petitioner filed a motion for reconsideration of his request for appointment of counsel. This motion was also denied by this court on March 30, 2011. See Court's Decision and Order of March 30, 2011. By that same order, the court granted the petitioner an extension of time of one month in which to file his brief in support of his motion and on April 21, 2011, granted an additional extension of time to the petitioner.

On May 31, 2011, the petitioner filed a motion to withdraw his petition. (Docket #36). In moving to withdraw the petition, the petitioner states that he was "unable to obtain legal counsel and/or help and the issues brought forth are complex and beyond his scope of ability." (Petitioner's Motion to Withdraw at 1). The court has found that the petitioner's filings to date have been well-written and clear, suggesting he is capable of proceeding pro se in this matter.

However, the petitioner has indicated that he does not wish to proceed with this case and, therefore, the court will grant the petitioner's motion to withdraw his petition.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petitioner's motion to withdraw his petition for a writ of habeas corpus be and here is **granted**. (Docket #36).

IT IS FURTHER ORDERED that this case be and hereby is **dismissed** without prejudice.

IT IS ALSO ORDERED that the Clerk of Court shall enter judgment accordingly.

Dated at Milwaukee, Wisconsin this 8th day of June, 2011.

BY THE COURT:

s/Patricia J. Gorence
PATRICIA J. GORENCE
United States Magistrate Judge